

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TENNESSEE
AT GREENEVILLE

LISA MICHELLE WILSON

v.

PORTFOLIO RECOVERY ASSOCIATES, LLC,
ET AL.

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NO. 2:12-CV-330

REPORT AND RECOMMENDATION

The defendants in this Fair Debt Collection Practices Act have filed a motion to dismiss, (Doc. 18), which has been referred to the magistrate judge for a report and recommendation.¹

The basis of the motion to dismiss is the plaintiff's failure to respond to discovery requests that have been outstanding since December 17, 2012.

Plaintiff's attorney, Mr. Mechem, has responded to the motion to dismiss, Document 20. In that response, Mr. Mechem says: (1) he has not seen or heard from his client since November 1, 2012; (2) during those five months, Mr. Mechem attempted to locate plaintiff, and even hired a private investigator to assist, but all his efforts have been unsuccessful; and (3) Mr. Mechem earlier suggested to defendants' attorney that it "might be preferable" for Mr. Mechem to ask the court to be allowed to withdraw, but defendants' counsel nevertheless filed the motion to dismiss.

¹Doc. 19.

In his response, Mr. Mechem asks that he be allowed fourteen more days to find the plaintiff and, if he is successful, he will submit responses to the discovery seven days thereafter.

Respectfully, Mr. Mechem's request makes no sense. If he has not heard from his client for the past five months, and if neither he nor a private investigator have been able to locate the plaintiff, how could anyone reasonably expect the plaintiff to be located within the next fourteen days? Granting Mr. Mechem's request serves only to punish the defendants *and this court* for his client's apparent cavalier and disdainful attitude towards the lawsuit she commenced.

It is recommended that plaintiff's suit be dismissed on either or both of the following grounds: for failure to cooperate with discovery, F.R.Civ.P. 37(b)(2)(A)(v); failure to prosecute, F.R.Civ.P. 41(b).²

Respectfully submitted,

s/ Dennis H. Inman
United States Magistrate Judge

²Any objections to this report and recommendation must be filed within fourteen (14) days of its service or further appeal will be waived. 28 U.S.C. § 636(b)(1)(B) and (C). *United States v. Walters*, 638 F.2d 947-950 (6th Cir. 1981); *Thomas v. Arn*, 474 U.S. 140 (1985).